

Attorney's Docket: 2001US405
Serial No.: 10/002,710
Group: 1615

REMARKS

The Office Action mailed April 20, 2004, has been carefully considered together with each of the references cited therein. The remarks presented herein are believed to be fully responsive to the Office Action. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

Claims 1-9, 11 and 14-19 stand rejected under 35 USC § 102(e) as being anticipated by LeGrow et al. (US 6,143,309). Claims 1-9 and 11-18 stand rejected under 35 USC § 102(b) as being anticipated by LeGrow et al. (US 5,932,231) in view of LeGrow et al. (US 6,143,309). Claims 12 and 13 stand rejected under 35 USC § 103(a) as being unpatentable over LeGrow et al. (US 6,143,390). These rejections are respectfully traversed.

The Office, in discussing the § 102(e) rejection, states as follows:

The applied reference has common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 USC § 102(e). This rejection under 35 USC § 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed by not claimed in the reference was derived from the inventor of this application and is thus not invention "by another," or by an appropriate showing under 37 CFR 1.131.


Attached herewith is a declaration under 37 CFR § 1.132 by Leonard Terry and Gary LeGrow stating that they are the inventors of the subject matter disclosed but not claimed in US 6,143,309. In view of the § 1.132 declaration, Applicants respectfully contend that the § 102(e) rejection in view of LeGrow et al. (US 6,143,309) has been traversed.

With regard to the § 103 rejections, as such rejections rely upon US 6,143,309, and given the enclosed § 1.132 declaration, Applicants contend that these rejections have been traversed as well because the '309 is not prior art against the instant application.

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In view of the forgoing remarks, the Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, she is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,


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